

**Steve Jakubowski (admitted *pro hac vice*)
Elizabeth Richert (admitted *pro hac vice*)
THE COLEMAN LAW FIRM
77 West Wacker Dr., Suite 4800
Chicago, Illinois 60601
Telephone: (312) 606-8641
Facsimile: (312) 444-1028
sjakubowski@colemanlawfirm.com**

**ATTORNEYS FOR THE INDIVIDUAL ACCIDENT LITIGANTS
(Callan Campbell, Kevin Junso, *et al.*, Edwin Agosto,
Kevin Chadwick, *et al.*, and Joseph Berlingieri)**

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re	:	Chapter 11 Case No.
	:	
MOTORS LIQUIDATION COMPANY, <i>et al.</i>,	:	09-50026 (REG)
f/k/a General Motors Corp., <i>et al.</i>	:	
	:	
Debtors.	:	(Jointly Administered)
	X	

**INDIVIDUAL ACCIDENT LITIGANTS (I) DESIGNATION OF ITEMS TO BE INCLUDED
IN THE RECORD ON APPEAL AND (II) STATEMENT OF ISSUES TO BE PRESENTED**

Callan Campbell (“Campbell”), Kevin Junso, *et al.* (“Junso”), Edwin Agosto (“Agosto”), Kevin Chadwick, *et al.* (“Chadwick”), and Joseph Berlingieri (“Berlingieri,” together with Campbell, Junso, Agosto, and Chadwick, the “**Individual Accident Litigants**”), by and through their attorneys, having filed their notice of appeal on July 6, 2009 [Docket No. 2970] of the decision [Docket No. 2967] and order [Docket No. 2968] of this Court entered July 5, 2009 authorizing the sale of assets pursuant to the Amended and Restated Master Sale and Purchase Agreement with NMGCO, Inc., a U.S. Treasury-sponsored purchaser, and granting related relief,

hereby submit this (I) designation of items to be included in the record of appeal and (II) statement of issues to be presented on appeal.¹

DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

A. Docketed Entries with the Bankruptcy Court

The following documents have been filed with the Bankruptcy Court under the corresponding Bankruptcy Court Docket Numbers and are hereby designated as items to be included in the record on appeal:

Item	Bankr. Doc. No.	Description
1	1	Voluntary Petition
2	21	Affidavit of Frederick A. Henderson
3	37	Statement of the United States of America Upon the Commencement of General Motors Corporation's Chapter 11 Case (Attachments: # 1 Exhibit A # 2 Exhibit B)
4	68	Declaration of William C. Repko In Support of Debtors' Proposed Debtor in Possession Financing Facility
5	92	Motion for Sale of Property under Section 363(b)/Debtors Motion Pursuant to 11 U.S.C. §§ 105, 363(b), (f), (k), and (m), and 365 and Fed. R. Bankr. P. 2002, 6004, and 6006, to (I) Approve (A) The Sale Pursuant to The Master Sale and Purchase Agreement with Vehicle Acquisition Holdings LLC, A U.S. Treasury-Sponsored Purchaser, Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (B) The Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (C) Other Relief; and (II) Schedule Sale Approval Hearing (Attachments: # 1 Exhibit A - Proposed Master Sale and Purchase Agreement; # 2 Exhibit Sale Order; # 3 Exhibit C - Sale Procedures Order; # 4 Exhibit D - Form of Assumption and Assignment; Notice # 5 Exhibit E - Form of Assumption and Assignment; Notice # 6 Exhibit F- Form Of UAW Retiree Notice; # 7 Exhibit G - Form of Publication Notice)

¹ Capitalized terms used in the body of the document (excluding the boxed designated items) and not otherwise defined shall have the meaning set forth in the order approving the sale (the "Sale Order") [Docket No. 2968].

Item	Bankr. Doc. No.	Description
6	105	Memorandum of Law Memorandum of Law In Support of Debtors' Motion Pursuant To 11 U.S.C. §§ 105, 363(b), (f), (k), (m) and 365, and Fed. R. Bankr. P. 2002, 6004 and 6006, to (I) Approve (A) The Sale Pursuant to The Master Sale and Purchase Agreement with Vehicle Acquisition Holdings (related document(s) (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D # 5 Exhibit E # 6 Exhibit F)
7	422	Supplemental Declaration of William C. Repko in Support of Debtors' Proposed Debtor in Possession Financing Facility
8	425	Declaration of J. Stephen Worth in Support of the Proposed Sale of Debtors' Assets to Vehicle Acquisition Holdings LLC
9	431	Supplemental Declaration of J. Stephen Worth in Support of the Proposed Sale of Debtors' Assets to Vehicle Acquisition Holdings LLC
10	435	Declaration of Albert Koch
11	1997	Objection of Ad Hoc Committee of Consumer Victims of General Motors to the Debtors Motion Pursuant to 11 U.S.C. §§105, 363(b), (f), (k), and (m), and 365 and Fed R. Bankr. P. 2002, 6004, And 6006, to (I) Approve (A) The Sale Pursuant to the Master Sale and Purchase Agreement with Vehicle Acquisition Holdings LLC, A U.S. Treasury-Sponsored Purchaser, Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (B) the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (C) Other Relief; and (II) Schedule Sale Approval Hearing
12	2176	Individual Accident Litigants' Amended Objection to Motion of Debtors for the Sale of the "Purchased Assets" Free and Clear of Potential Successor Liability Claims
13	2177	Individual Accident Litigants' Amended Memorandum of Law in Support of Debtors' 363 Motion for the Sale of the "Purchased Assets" Free and Clear of Potential Successor Liability Claims (Attachments: # 1 Exhibit A)
14	2474	Debtors' Evidence and Witness List for the Hearing to Consider Debtors' Motion Pursuant to 11 U.S.C. §§ 105, 363(b), (f), (k), (m) and 365, and Fed. R. Bankr. P. 2002, 6004 and 6006, to Approve (A) the Sale Pursuant to the Master Sale and Purchase Agreement with Vehicle Acquisition Holdings LLC, a U.S. Treasury-Sponsored Purchaser, Free and Clear of Liens, Claims, Encumbrances and Other Interests; (B) the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (C) Other Relief
15	2479	Supplemental Affidavit of Frederick A. Henderson
16	2577	Declaration of Harry Wilson (Attachments: #1 - Exhibits A & B)

Item	Bankr. Doc. No.	Description
17	2646	The United States of Americas Statement in Support of Debtors' Motion Pursuant to 11 U.S.C. §§ 105, 363(b), (f), (k), and (m) and 365 and Fed. R. Bankr. P. 2002, 6004, and 6006, to Approve (A) the Sale Pursuant to the Master Sale and Purchase Agreement with Vehicle Acquisition Holdings LLC, A U.S. Treasury-Sponsored Purchaser, Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (B) the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (C) Other Relief
18	2681	Amended Omnibus Reply to Motion/Omnibus Reply of the Debtors to Objections to Debtors' Motion Pursuant to 11 U.S.C. §§ 105, 363(b), (f), (k), and (m) and 365 and Fed. R. Bankr. P. 2002, 6004, and 6006, to Approve (A) the Sale Pursuant to the Master Sale and Purchase Agreement with Vehicle Acquisition Holdings LLC, A U.S. Treasury-Sponsored Purchaser, Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (B) the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (C) Other Relief
19	2774	First Amendment to Amended and Restated Master Sale and Purchase Agreement, dated as of June 30, 2009
20	2865	Amended Objection to Sale Motion on behalf of New York State Department of Environmental Conservation.
21	2867	Statement of the Debtors on Successor Liability
22	2878	Joint Statement of Individual Accident Litigants and <i>Ad Hoc</i> Committee of Consumer Victims of GM Regarding Treatment of Successor Liability Issues from the Ad Hoc Committee of Victims of General Motors and Other Product Liability Claimant Advocates
23	2967	Decision on Debtors' Motion for Approval of (1) sale of assets to Vehicle Acquisition Holdings LLC; (2) assumption and assignment of related executory contracts; and (3) entry into UAW retiree settlement agreement
24	2968	Order (I) Authorizing Sale of Assets Pursuant to Amended and Restated Master Sale and Purchase Agreement with NGMCO, Inc., a U.S. Treasury-Sponsored Purchaser; (II) Authorizing Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection with the Sale; and (III) Granting Related Relief
25	2970	Notice of Appeal of Sale Order by Individual Accident Litigants
26	2989	Ad Hoc Committee of Asbestos Personal Injury Claimants' Motion to Allow Direct Appeal to Second Circuit (Attachments: # 1 Proposed Order # 2 Proposed Order)

Item	Bankr. Doc. No.	Description
27	2990	Individual Accident Litigants' Motion for Certification of Sale Order for Immediate Appeal to the Second Circuit on the Issue of Successor Liability
28	2991	Exhibits to Individual Accident Litigants' Motion for Certification of Sale Order for Immediate Appeal to the Second Circuit on the Issue of Successor Liability
29	3026	The United States of America's Objection to Certain Appellants Motions for an Order Certifying the Sale Order for Immediate Appeal to the United States Court of Appeals, pursuant to 28 U.S.C. § 158(d)(2), or in the Alternative for a Stay of the Sale Order, pursuant to Fed. R. Bankr. P. 8005
30	3028	Objection of the Official Committee of Unsecured Creditors to (I) the Ad Hoc Committee of Asbestos Personal Injury Claimants Motion for an Order Certifying Sale Order for Immediate Appeal to the United States Court of Appeals, Pursuant to 28 U.S.C. § 158(d)(2) or in the Alternative for a Stay of the Sale Order, Pursuant to Fed. R. Bankr. P. 8005, and (II) Motion of the Individual Accident Litigants for an Order Certifying the Sale Order for Immediate Appeal to The United States Court of Appeals Pursuant to 28 U.S.C. § 158(d)(2) on the Issue of Successor Liability
31	3029	Omnibus Objection Of The Debtors To (i) Motion Of The Individual Accident Litigants For An Order Certifying The Sale Order For Immediate Appeal To The United States Court Of Appeals Pursuant To 28 U.S.C. § 158(d)(2) On The Issue Of Successor Liability, And (ii) The Ad Hoc Committee Of Asbestos Personal Injury Claimants Motion For An Order Certifying Sale Order For Immediate Appeal To The United States Court Of Appeals Pursuant To 28 U.S.C. § 158(d)(2) Or In The Alternative For A Stay Of The Sale Order, Pursuant To Fed. R. Bankr. P. 8005
32	3035	Omnibus Objection Of The Debtors To (i) Motion Of The Individual Accident Litigants For An Order Certifying The Sale Order For Immediate Appeal To The United States Court Of Appeals Pursuant To 28 U.S.C. § 158(d)(2) On The Issue Of Successor Liability, And (ii) The Ad Hoc Committee Of Asbestos Personal Injury Claimants Motion For An Order Certifying Sale Order For Immediate Appeal To The United States Court Of Appeals Pursuant To 28 U.S.C. § 158(d)(2) Or In The Alternative For A Stay Of The Sale Order, Pursuant To Fed. R. Bankr. P. 8005
33	3046	July 7, 2009 Bench Decision and Order on Motions for § 158(d)(2) Certification, or in the alternative, for stay pending appeal
34	3062	Transcript of Hearing: July 2, 2009

Item	Bankr. Doc. No.	Description
35	3087	Transcript of Hearing: June 30, 2009
36	3182	Transcript of Hearing: July 7, 2009
37	(not yet filed)	Transcript of Hearing: July 1, 2009

B. **Undocketed Documents Admitted into Evidence at the Sale Hearing**

The following documents, attached hereto as **Appendices 1 – 4**, have been not been filed with the Bankruptcy Court but were admitted into evidence at the Sale Hearing and are also designated as items to be included in the record on appeal:²

Item	Appendix No.	Description
38	Appendix 1	Deposition of Frederick Henderson (exhibits will be uploaded separately upon agreement with counsel of record for the Debtors and the Purchaser on the handling of confidential information)
39	Appendix 2	Deposition of Harry Wilson (exhibits will be uploaded separately upon agreement with counsel of record for the Debtors and the Purchaser on the handling of confidential information)
40	Appendix 3	PLCA Ex. 1 - Presentation entitled “363 Sale Update,” dated June 5, 2009
41	Appendix 4	PLCA Ex. 2 - Email and attachment from Stephen Worth to Harry Wilson re “Warrant Strike Price Calc.”

² Reference to “PLCA Ex. __” is to an exhibit entered into evidence at the hearing by counsel for the Individual Accident Litigants.

STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

1. Whether the Bankruptcy Court had the authority under Section 363(f) of the Bankruptcy Code, 11 U.S.C. § 363(f), to authorize the sale of the Purchased Assets to the Purchaser “free and clear” of prepetition product liability claimants’ potential *in personam* claims against the Purchaser arising under state law theories of successor liability?
2. Whether the Closing of the 363 Transaction pursuant to the MPA rendered this appeal moot?

Dated: July 16, 2009

CALLAN CAMPBELL, KEVIN JUNSO, ET AL.,
EDWIN AGOSTO, KEVIN CHADWICK, ET AL., AND
JOSEPH BERLINGIERI

By: /s/ Steve Jakubowski
One of Their Attorneys

Steve Jakubowski (admitted *pro hac vice*)
Elizabeth Richert (admitted *pro hac vice*)
THE COLEMAN LAW FIRM
77 West Wacker Drive, Suite 4800
Chicago, IL 60601
Tel: (312) 606-8641
Fax: (312) 444-1028
sjakubowski@colemanlawfirm.com

Attorneys for Callan Campbell, Kevin Junso, *et al.*,
Edwin Agosto, Kevin Chadwick, *et al.* and Joseph
Berlingieri

CERTIFICATE OF SERVICE

I, Steve Jakubowski, hereby certify that I served a copy of the **INDIVIDUAL ACCIDENT LITIGANTS (I) DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL AND (II) STATEMENT OF ISSUES TO BE PRESENTED** on the parties listed below via email unless otherwise specified. Additionally, upon electronically filing with the Clerk of the Court all parties were served via the Court's electronic notification system on July 16, 2009.

/s/ Steve Jakubowski

Harvey R. Miller, Esq. Stephen Karotkin, Esq. Joseph H. Smolinsky, Esq. Weil Gotshal & Manges LLP 767 Fifth Ave. New York, New York 10153 harvey.miller@weil.com stephen.karotkin@weil.com Joseph.Smolinsky@weil.com	John J. Rapisardi, Esq. Peter Friedman, Esq. Cadwalader, Wickersham & Taft LLP One World Financial Center New York, New York 10281 john.rapisardi@cwt.com peter.friedman@cwt.com
Gordon Z. Novod, Esq. Thomas Moers Mayer, Esq. Kramer Levin Naftalis & Frankel, LLP 1177 Avenue of the Americas New York, NY 10036 gnovod@kramerlevin.com tmayer@kramerlevin.com	James L. Bromley, Esq. Cleary Gottlieb Steen & Hamilton LLP One Liberty Plaza New York, New York 10006 jbromley@cgsh.com
Babette Ceccotti, Esq. Cohen Weiss & Simon LLP 330 W. 42 nd Street New York, New York 10036 bceccotti@cwsny.com	Michael J. Edelman, Esq. Michael L. Schein, Esq. Vedder Price, P.C. 1633 Broadway, 47 th Floor New York, New York 10019 mjedelman@vedderprice.com mschein@vedderprice.com
Diana G. Adams, Esq. Brian Masumoto, Esq. Office of the U.S. Trustee For the Southern District of NY 33 Whitehall St. , 21 st Floor New York, New York 1004 Facsimile: (212) 668-2255 brian.masumoto@usdoj.gov	David S. Jones, Esq. Matthew L. Schwartz, Esq. U.S. Attorney's Office, S.D.N.Y. 86 Chambers Street, Third Floor New York, New York 10007 Facsimile: (212)637-2684 Matthew.Schwartz@usdoj.gov David.Jones6@usdoj.gov